



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

LUIS FERNANDO ORTEGA, ) Case No. CV 14-0503-MWF (JPR)  
 )  
Petitioner, )  
 ) ORDER ACCEPTING FINDINGS AND  
vs. ) RECOMMENDATIONS OF U.S.  
 ) MAGISTRATE JUDGE  
CLARK E. DUCART, Warden, )  
 )  
Respondent. )  
\_\_\_\_\_ )

The Court has reviewed the Petition, records on file, and Report and Recommendation of U.S. Magistrate Judge. See 28 U.S.C. § 636. On May 15, 2015, Petitioner filed objections to the R&R and a request for a certificate of appealability, in both of which he mostly repeats arguments from the Petition and Traverse. Petitioner seems to concede, as the Magistrate Judge pointed out in the R&R, that no clearly established law exists as to most of his claims, but he urges the Court to create the necessary law by finding in his favor. (Objections at 6-7; see also id. at 4 (noting as to third-party-culpability claim that "[t]here is no authority on this issue . . . ."), 6 (arguing as to same claim that "there is no set precedent that stops the

1 trial Courts from violating rights of criminal defendants" and  
2 "Petitioner cant cite a law that not exist due to no Court will  
3 address this issue"), 7 (arguing as to first evidentiary claim  
4 that "[t]his is a issue that needs to be addressed for there is  
5 no clear rule"), 13 (stating as to second evidentiary claim,  
6 "Lacking any Supreme Court authority directly on point, . . .").)  
7 Of course, the Court lacks the power to do what Petitioner asks  
8 because 28 U.S.C. § 2254(d)(1) defines "clearly established" law  
9 as being "determined by the Supreme Court of the United States"  
10 only.

11 Having reviewed de novo those portions of the R&R to which  
12 objections were filed, the Court accepts the findings and  
13 recommendations of the Magistrate Judge. IT IS ORDERED that the  
14 Petition is denied without leave to amend, Petitioner's request  
15 for an evidentiary hearing is denied, and Judgment be entered  
16 dismissing this action with prejudice.

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19 DATED: August 24, 2015

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MICHAEL W. FITZGERALD  
U.S. DISTRICT JUDGE